

MANDATE

09-4973-pr
Meehan v. State of New York

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

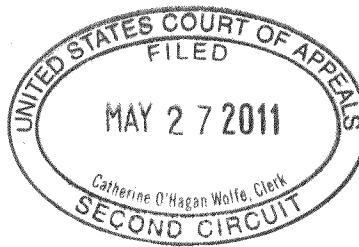
At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 27th day of May, two thousand eleven.

PRESENT: AMALYA L. KEARSE,
GERARD E. LYNCH,
J. CLIFFORD WALLACE,*
Circuit Judges.

DENNIS MEEHAN,

Plaintiff-Appellant,

v.



09-4973-pr

STATE OF NEW YORK, N.Y. STATE DEPT. OF
CORRECTIONAL SERVICES, CORCRAFT
INDUSTRIES, *et al.*,

*Defendants-Appellees,***

FOR APPELLANT: Dennis Meehan, *pro se*, Fallsburg, New York.

* Senior Judge J. Clifford Wallace of the United States Court of Appeals for the Ninth Circuit, sitting by designation.

** The Clerk of Court is instructed to amend the official caption in this case to conform to the listing of the parties above.

FOR APPELLEES:

Barbara D. Underwood, Solicitor General, Nancy A. Spiegel, Senior Assistant Solicitor General, Victor Paladino, Assistant Solicitor General, *for* Eric T. Schneiderman, Attorney General, Albany, New York.

Appeal from a judgment of the United States District Court for the Northern District of New York (Scullin, *J.*; DiBianco, *M.J.*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court be **AFFIRMED**.

Dennis Meehan, *pro se*, appeals from the district court's dismissal, pursuant to 28 U.S.C. § 1915(e), of his complaint against the State of New York, the New York State Department of Correctional Services, and Corcraft Industries, and its summary judgment for the remaining defendants. We assume the parties' familiarity with the relevant facts and procedural history.

We review a district court's 28 U.S.C. § 1915(e) dismissal *de novo*. See Giano v. Goord, 250 F.3d 146, 149-50 (2d Cir. 2001). We also review a summary judgment *de novo*, resolving all ambiguities and drawing all permissible inferences in favor of the non-moving party. See Redd v. Wright, 597 F.3d 532, 535 (2d Cir. 2010).

Having conducted an independent and *de novo* review of the record, we affirm the district court's orders for substantially the same reasons stated by the district court in its thorough and well-reasoned decisions. With respect to the October 11, 2006, order, although Meehan was not given the opportunity to amend his complaint prior to dismissal, see McEachin v. McGuinnis, 357 F.3d 197, 200 (2d Cir. 2004), such amendment would have been futile because Corcraft Industries is immune from his claims, see Komlosi v. N.Y. State Office of Mental Retardation and Dev. Disabilities, 64 F.3d 810, 815 (2d Cir. 1995) (sovereign immunity applies to "governmental entities that are considered arms of the state for Eleventh Amendment purposes")

(quotation marks omitted)). With respect to the September 29, 2009, order, Meehan failed to exhaust all available administrative remedies before bringing his federal suit, see 42 U.S.C. § 1997e(a), and has not shown any special circumstances that would justify this failure, see Brownell v. Krom, 446 F.3d 305, 311-12 (2d Cir. 2006).

We have considered Appellant's other arguments on appeal and conclude that they are without merit. Accordingly, the judgment of the district court is hereby **AFFIRMED**.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk



A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

